

Do you have a Contract Risk Transfer Program?

To protect your company against risk, it takes more than an insurance policy. The NAXSA insurance program through HMP Insurance will help you look at all avenues to protect you against those risks.

As with any project, they come with potential financial and operational risks when working with third-party contractors who are using your equipment. A Contractual Risk Transfer Program (CRT) can help mitigate some of those risks. These programs can help protect your business in the event of an injury or property damage claim related to third-party services or products. A Risk Transfer Program simply outlines each party's responsibilities before work begins for everyone involved in construction projects, and typically involves the following six concepts and/or elements.

[Download the Travelers Contractual Risk Transfer Checklist >](#)

Written Contract

At the heart of the CRT program are written contracts that define roles, responsibilities and your requirements (including financial) of subcontractors, vendors and service providers. They can incorporate indemnity agreements, insurance specifications, and any necessary requirements, such as a Certificate of Insurance (COI).

Indemnification Clause

An indemnification clause is a portion of the written contract that can help you from liability for injury or damages resulting from another contractor's or sub-contractor's work. It can help to outline the responsibilities of the contractor whose work results in injury or damages, including the duty to defend the other involved contractors. Indemnification clauses can be complex and involve legal issues that may need to be addressed. It is recommended that you consult an attorney knowledgeable in contract law in the state where the work is performed on this issue.

Insurance Specifications

Insurance specifications provide details about the insurance and insurance limits you require of your customers, vendors or other service providers. Typically, insurance specifications include details about auto, general liability, workers compensation and umbrella lines of insurance, but other lines of insurance may be needed. Your insurance agent and legal counsel can help you determine the appropriate coverage and limits.

Certificate of Insurance (COI)

A COI can help to confirm that a subcontractor, vendor or other service provider involved in your project is carrying the insurance you require for their work. Ask for a COI and review it to confirm coverages, limits and

other insurance specifications *before* work begins. Revisit the COI before it expires, and always keep a current copy on file.

Additional Insured Endorsement

This insurance endorsement can be requested from a client's general liability insurance carrier and can help to align a Client's insurance coverage to meet the obligations required by CRT, including indemnity and duty to defend obligations. Additional insured endorsements can be reviewed and discussed with your insurance agent, or legal counsel.

Record Retention Practices

Records, including executed contracts, drawings, specifications, change orders, photographs and insurance certificates, among others, are best to be retained and readily available in the event of a loss or claim. Consult with legal counsel to determine the length of time for record retention that meets your needs and any state or federal requirements that may apply. Communicate your record retention policy to all management and supervisory personnel on a project.

If records are maintained electronically, keep up with system upgrades so electronic records are accessible. It is best to have backup copies of all records, including paper-based and electronic.

Lastly, have legal counsel review the program annually to confirm compliance with applicable laws, regulations and court precedents and audit project files frequently to make sure you have the right documents in place.

A CRT Program is just one risk management strategy intended to help reduce this risk. A proper Risk Transfer program along with a good insurance program may help you effectively manage your project and risk.

It is important that you consult with legal counsel knowledgeable in construction law regarding risk transfer tools and how they may apply to your arrangement with subcontractors, suppliers, vendors and others involved in your project.

The NAXSA Insurance Program and Blake Dickens @ HMP insurance can help you understand your insurance needs.

Blake Dickens

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